IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5949 OF 2006
ALONGWITH
WRIT PETITION NO.5965 OF 2006

Shri Janardan O. Choudhary
and Anr. .....Petitioners.

V/s

Amber Co-Operative Housing Society
Ltd. and Ors. ....Respondents.

Mr. Madhav Jamdar for Petitioners.

Mr. Murtuza Nazmi for Respondent No.1.

Mr. P.I. Khemani, AGP for Respondent Nos. 2 to 4.

CORAM: A. S. OKA, J.

DATE : 15th February, 2007

P.C:

1. Rule.

2. The learned Counsel for Respondent No.1 waives service. The learned AGP waives service for Respondent Nos. 2 to 4.

3. Taken up for hearing forthwith.

4. Petitioners have deposited a sum of Rs 1 lakh in this Court. After arguing the Petition for some time, the learned

Counsel appearing for Petitioners and Respondent No.1 agreed that the impugned order passed by the Revisional Authority of remand be set aside and the Revisional Authority be itself directed to decide the Revision Application on merits on the basis of material available on record and in accordance with law.

5. In this view of the matter, Writ Petition is disposed of by passing the following order:-

(i) The impugned order dated 4th July, 2006 is quashed and set aside.

(ii) Revision Application is restored to the file of the Divisional Joint Registrar, Co-Operative Societies, Konkan Division, Konkan Bhavan, Navi Mumbai.

(iii) Parties are directed to appear before the Revisional Authority on 05/03/2007 for deciding the schedule of hearing of the Revision Application.

(iv) Respondent No.1 is permitted to withdraw the sum of Rs 1 lakh deposited by Petitioners in this Court. The withdrawal will be subject to final outcome of the Revision Application as well as subject to

further adjustments.

(v) Till disposal of the Revision Application before the Revisional Authority, Petitioners will keep on paying municipal taxes and other outgoings in respect of two flats.

(vi) Till disposal of the Revision Application, Petitioners will keep on paying regularly maintenances charges in respect of one flat to Respondent No.1.

(vii) All contentions of the parties in the Revision Application are expressly kept open.

(viii) Rule is made absolute in the above terms with no order as to costs.

(ix) Parties to act on the authenticated copy of this order.

(A.S. OKA, J.)